

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Balboa Insurance Company,	:	
	:	
Plaintiff	:	Civil Action 2:11-cv-0428
	:	
v.	:	
	:	
Procheck Engineering, Inc.	:	Magistrate Judge Abel
and William C. Newman,	:	
	:	
Defendants	:	
	:	

**Order of Reference**

On January 19, 2012, counsel for the parties participated in a telephone status conference with the Court.

Discovery. Most depositions have been taken. Plaintiff still needs to depose Brandon McDougal. He failed to appear for deposition, and the Fairfield County Common Pleas Court issued an order for his arrest to show cause why he should not be held in contempt for his failure to submit to deposition.

Settlement. Although the parties agreed to mediate on January 20, they failed to come to a pre-mediation agreement on the terms of an indemnity. Defendants do not want to mediate without such an agreement. Defendants believe plaintiff has the burden of demonstrating it is the real party in interest. Plaintiff's counsel is still searching for records regarding the loan and its relationship to the named insured. Plaintiff's counsel said that Altegra Credit Company was the named insured. In December 2010, Altegra merged into Home Loan Services and First Franklin. Defendant responded that there

are no loan documents showing that First Franklin or Home Loan Services loaned any money to the owner of the home.

The Fairfield County Common Pleas Court case is going to mediation on January 20, then-if not settled-to trial later this year.

On March 1, 2012, defendant will file a motion for summary judgment on the issue of who is the real party in interest.

s/Mark R. Abel  
United States Magistrate Judge